

**BRETT O'NEIL**

Office of the Commissioner of Securities and Insurance,  
Montana State Auditor  
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Attorney for the CSI

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,  
MONTANA STATE AUDITOR  
STATE OF MONTANA**

IN THE MATTER OF:	)	CASE NO. INS-2011-242
	)	
MONTANA FARM BUREAU	)	<b>CONSENT AGREEMENT AND</b>
FEDERATION, INC.,	)	<b>FINAL ORDER</b>
	)	
Respondent.	)	
	)	

This Consent Agreement and Final Order (Agreement) is entered into by the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, et seq. (Code), and Montana Farm Bureau Federation, Inc. (Respondent).

**RECITALS**

WHEREAS, the Respondent entered into an agreement with New West Health Services ("New West") by which New West would market a health insurance product that was endorsed by Respondent;

WHEREAS New West utilized the services of Payne Financial Group ("PFG") to be the sole agent selling this product;

WHEREAS Respondent was to be paid a royalty payment for any New West policies sold by PFG and endorsed by Respondent;

WHEREAS Respondent relied on the knowledge and expertise of New West and PFG in the marketing of such health insurance policies;

WHEREAS, the CSI received a consumer complaint regarding a health care policy issued by New West;

WHEREAS, the CSI alleged that New West, PFG and Respondent violated the Montana Insurance Code in relation to such health insurance policies;

WHEREAS New West and PFG have entered into agreements with CSI in relation to their actions with respect to the marketing of such health insurance products;

WHEREAS, the CSI and the Respondent agree that the best interests of the public would be served by entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the CSI and the Respondent hereby agree to settle this matter pursuant to the following terms and conditions:

#### **STIPULATIONS AND CONSENTS**

I. Without admitting or denying any of the CSI's allegations, the Respondent stipulates and consents to the following:

A. Within ten days from the execution of this Agreement, the Respondent shall reimburse the State an amount of \$1,000, the approximate amount received by Respondent relating to the health insurance policies.

B. Such reimbursement should be made payable to the Montana State Auditor and sent to the Office of the Commissioner of Securities and Insurance, Montana State Auditor, c/o Brett O'Neil, Attorney, 840 Helena Avenue, Helena, MT 59601.

C. The Respondent shall perform an internal evaluation to ensure the proper training of its staff for its role of receiving a royalty for the use of its name by insurance companies and

make any changes it determines are necessary. Following this evaluation, the Respondent shall identify any other issues similar to the ones raised by the CSI in this agreement and take corrective action. No action shall be taken by CSI for any procedures identified and reported to CSI within three months from the date of this agreement.

D. The Respondent shall comply with the terms and conditions of this Agreement, the Code, and all regulations of the state of Montana.

E. The Respondent fully and forever releases and discharges the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), the CSI, and all of the CSI's employees and agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement or the sale of any New West Health plans.

F. The Respondent specifically and affirmatively waives a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-101, et seq., and elects to resolve this matter on the terms and conditions set forth herein.

II. All parties to this Agreement stipulate and consent as follows:

A. The Commissioner and the CSI have jurisdiction over the subject matter of the above-entitled proceeding.

B. Under authority of the Code, the CSI hereby agrees that it will not initiate any civil or administrative action or attempt to levy any fine against the Respondent regarding the allegations contained in this action.

C. This Agreement is entered without adjudication of any issue, law or fact. MFBF enters into the Agreement in light of the settlements entered into by New West and PFG, and it is entered into solely for the purpose of resolving the CSI's allegations and is not intended to be used for any other purpose. For any person or entity not a party to this Agreement, this

Agreement does not limit or create any private rights or remedies against the Respondent including limit or create liability of Respondent, or limit or create defenses of Respondent, to any claims.

D. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent or representative of the CSI to induce Respondent to enter into this Agreement.

E. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

F. This Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner herein.

G. This Agreement shall be effective upon signing of the Final Order.

H. The Agreement is a public record under Montana law and, as such, may not be sealed or otherwise withheld from the public.

DATED this 29<sup>th</sup> day of March, 2013.

**OFFICE OF THE COMMISSIONER OF SECURITIES AND  
INSURANCE, MONTANA STATE AUDITOR**

By: 

**BRETT O'NEIL**  
Attorney for the CSI

DATED this 21<sup>st</sup> day of March, 2013.

**MONTANA FARM BUREAU FEDERATION**

By: 

Its: Executive Vice President

**FINAL ORDER**

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 33-1-101, et seq.,  
and upon review of the foregoing Consent Agreement, and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and  
Respondent Montana Farm Bureau Federation, Inc. is adopted as if set forth fully herein.

DATED this 27<sup>th</sup> day of March, 2013.

**MONICA J. LINDEEN**

Commissioner of Securities and Insurance,  
Montana State Auditor

By:

  
**Greg Dahl**

Deputy Insurance Commissioner

cc. Brett O'Neil  
Terrence Cosgrove/Murry Warhank